

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 816**

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**Introduced by Assembly Member Lieber**  
**(~~Coauthor: Assembly Member Chu~~ *Coauthors: Assembly Members***  
***Chu and Pavley*)**

February 18, 2005

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An act to amend *Section 6276.12 of the Government Code*, and to amend Section 147.2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 816, as amended, Lieber. Hazard evaluation system and information service.

Existing law requires the Department of Industrial Relations, with the State Department of Health Services, to establish a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment in the state. That law requires the repository, among other things, to provide information and collect and evaluate data relating to possible hazards to employees resulting from exposure to toxic materials or harmful physical agents. That law expressly does not require employers to report any information not otherwise required by law.

This bill would ~~instead~~ require, upon written request from the ~~State Department of Health Services~~ repository, chemical manufacturers, suppliers, distributors, importers, and their agents to provide to the repository the names and addresses of their customers who have purchased specified chemicals or commercial products containing those chemicals, and would deem this information to be a trade secret. This bill would also provide that the State Department of Health

Services shall be entitled to reimbursement of attorney's fees and costs incurred in seeking an injunction to enforce this requirement.

*Existing law, the California Public Records Act, requires certain public records to be made available for public inspection, and lists records that are exempt from disclosure under the act.*

*This bill would exempt from public disclosure under the act the customer list of chemical manufacturers, suppliers, distributors, importers, and their agents, that would be required to be provided to the repository pursuant to this act, as a trade secret. The bill would also state findings and declarations of the Legislature for limiting the public's right of access to the customer lists.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 6276.12 of the Government Code is
- 2     amended to read:
- 3     6276.12. Conservatee, confidentiality of the conservatee's
- 4     report, Section 1826, Probate Code.
- 5     Conservatee, estate plan of, confidentiality of, Section 2586,
- 6     Probate Code.
- 7     Conservatee with disability, confidentiality of report, Section
- 8     1827.5, Probate Code.
- 9     Conservator, confidentiality of conservator's birthdate and
- 10    driver's license number, Section 1834, Probate Code.
- 11    Conservator, supplemental information, confidentiality of,
- 12    Section 1821, Probate Code.
- 13    Conservatorship, court review of, confidentiality of report,
- 14    Section 1851, Probate Code.
- 15    Consumer credit report information prohibited from being
- 16    furnished for employment purposes, Section 1785.18, Civil
- 17    Code.
- 18    Consumer fraud investigations, access to complaints and
- 19    investigations, Section 26509, Government Code.
- 20    Consumption or utilization of mineral materials, disclosure of,
- 21    Section 2207.1, Public Resources Code.
- 22    Contractor, evaluations and contractor responses,
- 23    confidentiality of, Section 10370, Public Contract Code.

1 Contractor, license applicants, evidence of financial solvency,  
2 confidentiality of, Section 7067.5, Business and Professions  
3 Code.

4 Controlled Substance Law violations, confidential information,  
5 Section 818.7, Government Code.

6 Controlled substance offenders, confidentiality of registration  
7 information, Section 11594, Health and Safety Code.

8 Cooperative Marketing Association, confidential information  
9 disclosed to conciliator, Sections 54453 and 54457, Food and  
10 Agricultural Code.

11 Coroner, inquests, subpoena duces tecum, Sections 27491.8  
12 and 27498, Government Code.

13 Corporations, commissioner, publication of information filed  
14 with commissioner, Section 25605, Corporations Code.

15 County alcohol programs, confidential information and  
16 records, Section 11812, Health and Safety Code.

17 County Employees' Retirement, confidential statements and  
18 records, Section 31532, Government Code.

19 County mental health system, confidentiality of client  
20 information, Section 5610, Welfare and Institutions Code.

21 County social services, investigation of applicant,  
22 confidentiality, Section 18491, Welfare and Institutions Code.

23 County social services rendered by volunteers, confidentiality  
24 of records of recipients, Section 10810, Welfare and Institutions  
25 Code.

26 Court files, access to, restricted for 60 days, Section 1161.2,  
27 Code of Civil Procedure.

28 Court reporters, confidentiality of records and reporters,  
29 Section 68525, Government Code.

30 Court-appointed special advocates, confidentiality of  
31 information acquired or reviewed, Section 105, Welfare and  
32 Institutions Code.

33 Crane employers, previous business identities, confidentiality  
34 of, Section 7383, Labor Code.

35 Credit unions, confidentiality of investigation and examination  
36 reports, Section 14257, Financial Code.

37 Credit unions, confidentiality of employee criminal history  
38 information, Section 14409.2, Financial Code.

39 Credit unions, confidentiality of financial reports, Section  
40 16120, Financial Code.

1 Criminal defendant, indigent, confidentiality of request for  
2 funds for investigators and experts, Section 987.9, Penal Code.

3 Criminal felon placed in diagnostic facility, confidentiality of  
4 report of diagnosis and recommendation, Sections 1203.3 and  
5 1543, Penal Code.

6 Criminal offender record information, access to, Sections  
7 11076, 11077, 11081, 13201, and 13202, Penal Code.

8 Criminal records information, disclosure by vendor, Section  
9 11149.4, Penal Code.

10 Crop reports, confidential, subdivision (e), Section 6254,  
11 Government Code.

12 Customer list of employment agency, trade secret, Section  
13 16607, Business and Professions Code.

14 Customer list of telephone answering service, trade secret,  
15 Section 16606, Business and Professions Code.

16 *Customer list of chemical manufacturers, suppliers,*  
17 *distributors, importers, and their agents, trade secret, Section*  
18 *147.2, Labor Code.*

19 ~~SECTION 1.~~

20 *SEC. 2.* Section 147.2 of the Labor Code is amended to read:

21 147.2. (a) In accordance with Chapter 2 (commencing with  
22 Section 6350) of Part 1 of Division 5 of this code and Section  
23 105175 of the Health and Safety Code, the Department of  
24 Industrial Relations shall, by interagency agreement with the  
25 State Department of Health Services, establish a repository of  
26 current data on toxic materials and harmful physical agents in use  
27 or potentially in use in places of employment in the state.

28 (b) The repository shall fulfill all of the following functions:

29 (1) Provide reliable information of practical use to employers,  
30 employees, representatives of employees, and other  
31 governmental agencies on the possible hazards to employees of  
32 exposure to toxic materials or harmful physical agents.

33 (2) Collect and evaluate toxicological and epidemiological  
34 data and any other information that may be pertinent to  
35 establishing harmful effects on health of exposure to toxic  
36 materials or harmful physical agents. *Nothing in this subdivision*  
37 *shall be construed as authorizing the repository to require*  
38 *employers, other than chemical manufacturers, suppliers,*  
39 *distributors, importers, and their agents, to report any*  
40 *information not otherwise required by law.*

1 (3) Upon written request by the ~~State Department of Health~~  
2 ~~Services~~ repository, chemical manufacturers, suppliers,  
3 distributors, importers, and their agents shall provide to the  
4 repository the names and addresses of their customers who have  
5 purchased certain chemicals, as specified by the repository, or  
6 commercial products containing those chemicals.

7 (A) The information provided by chemical manufacturers,  
8 suppliers, distributors, importers, and their agents pursuant to this  
9 paragraph shall be considered a trade secret, *and exempt from*  
10 *public disclosure under the California Public Records Act*  
11 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*  
12 *Title 1 of the Government Code).*

13 (B) The State Department of Health Services shall be entitled  
14 to reimbursement of attorney's fees and costs incurred in seeking  
15 an injunction to enforce the requirements of this paragraph.

16 (4) Recommend to the Chief of the Division of Occupational  
17 Safety and Health Administration that an occupational safety and  
18 health standard be developed whenever it has been determined  
19 that a substance in use or potentially in use in places of  
20 employment is potentially toxic at the concentrations or under the  
21 conditions used.

22 (5) Notify the Director of Food and Agriculture of any  
23 information developed by the repository that is relevant to  
24 carrying out his or her responsibilities under Chapters 2  
25 (commencing with Section 12751) and 3 (commencing with  
26 Section 14001) of Division 7 of the Food and Agricultural Code.

27 (c) The Director of Industrial Relations shall appoint an  
28 Advisory Committee to the repository. The Advisory Committee  
29 shall consist of four representatives from labor, four  
30 representatives from management, four active practitioners in the  
31 occupational health field, and three persons knowledgeable in  
32 biomedical statistics or information storage and retrieval systems.  
33 The Advisory Committee shall meet on a regular basis at the  
34 request of the director. The committee shall be consulted by, and  
35 shall advise the director at each phase of the structuring and  
36 functioning of the repository and alert system with regard to, the  
37 procedures, methodology, validity, and practical utility of  
38 collecting, evaluating, and disseminating information concerning  
39 hazardous substances, consistent with the primary goals and  
40 objectives of the repository.

1 (d) Nothing in this section shall be construed to limit the  
2 ability of the State Department of Health Services to propose  
3 occupational safety and health standards to the Occupational  
4 Safety and Health Standards Board.

5 (e) Policies and procedures shall be developed to assure, to the  
6 extent possible, that the repository uses and does not duplicate  
7 the resources of the federal government and other states.

8 (f) On or before December 31 of each year, the Department of  
9 Industrial Relations shall submit a report to the Legislature  
10 detailing the implementation and operation of the repository,  
11 including, but not limited to, the amount and source of funds  
12 allocated and spent on repository activities, the toxic materials  
13 and harmful physical agents investigated during the past year and  
14 recommendations made concerning them, actions taken to inform  
15 interested persons of the possible hazards of exposure to toxic  
16 materials and harmful physical agents, and any recommendations  
17 for legislative changes relating to the functions of the repository.

18 *SEC. 3. The Legislature finds and declares that Section 1 of*  
19 *this act, which amends Section 6276.12 of the Government Code,*  
20 *imposes a limitation on the public's right of access to the*  
21 *meetings of public bodies or the writings of public officials and*  
22 *agencies within the meaning of Section 3 of Article I of the*  
23 *California Constitution. Pursuant to that constitutional*  
24 *provision, the Legislature makes the following findings to*  
25 *demonstrate the interest protected by this limitation and the need*  
26 *for protecting that interest: in order to protect the trade secrets*  
27 *of chemical manufacturers, suppliers, distributors, importers,*  
28 *and their agents, including the names and addresses of*  
29 *customers who have purchased chemicals from those*  
30 *manufacturers, suppliers, distributors, importers, and their*  
31 *agents, it is necessary that lists containing those names and*  
32 *addresses be exempt from disclosure under the California Public*  
33 *Records Act (Chapter 3.5 (commencing with Section 6250) of*  
34 *Division 7 of Title 1 of the Government Code).*